

STATE PROCUREMENT OFFICE
HAWAII ELECTRONIC PROCUREMENT SYSTEM
(HePS)

INSTRUCTIONS AND GENERAL CONDITIONS

1. **COMPLIANCE AND REFERENCE:** It is the offeror's responsibility to read and comply with this entire document, attachments, and the specifications and special provisions of each solicitation, the Attorney General's AG2-GC (1/01) General Conditions, Chapter 103D, HRS, and applicable administrative rules are a part hereof and may be viewed at the State Procurement Office website at <http://www.spo.hawaii.gov/>

2. **DEFINITIONS OF TERMS USED THROUGHOUT THE HePS:**
 - ♦ **AWARD** The written notification of the state's acceptance of a quotation, bid, proposal, or the presentation of a contract to the selected offeror.
 - ♦ **BEST VALUE** The most advantageous offer determined by evaluating and comparing all relevant criteria in addition to price so that the offer meeting the overall combination that best serves the State is selected. These criteria may include, in addition to history of the vendor, quality of goods, services, or construction, delivery, and proposed technical performance.
 - ♦ **CATEGORY CODES** Numerical codes established by the National Institute of Government Purchasing for various categories of goods and services.
 - ♦ **CONTRACTOR** An offeror or vendor having a contract with a government agency.
 - ♦ **DEFINITE QUANTITY CONTRACT** A fixed-price contract for the delivery of a specific quantity of goods or services either at specified times or when ordered.
 - ♦ **ELECTRONIC CATALOG (eCATALOG)** Statewide price lists and requirements contracts for various common-use goods and services available through the HePS.
 - ♦ **HAWAII ELECTRONIC PROCUREMENT SYSTEM (HePS)** An Internet based, on-line procurement system that includes on-line vendor registration, an electronic small purchase Requests for Quotes (eRFQ), Price List/Requirements Contracts purchasing catalog (eCatalog), Invitation for Bids (IFB), Request for Proposals (RFP), and Reverse Auction capabilities. Additional information on the HePS can be viewed at the State Procurement Office website: <http://www.spo.hawaii.gov/>.
 - ♦ **INDEFINITE QUANTITY CONTRACT** A contract where the specific time period of the award can be determined, however the total quantity of goods or services are estimated.

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- ♦ **INET PURCHASING** The subcontractor providing the eCatalog capability of the HePS.
- ♦ **INTENT TO AWARD** The document indicating to an offeror that the agency intends to award a contract to them.
- ♦ **OFFEROR** A vendor submitting an offer of goods or services.
- ♦ **OPENING** The date set for opening of quotations or bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.
- ♦ **PAYMENT** When a purchasing card (pCard) is used, vendors are generally paid within 2-3 days by First Hawaiian Bank the card issuer. When a purchase order is used, vendors shall be paid no later than 30 calendar days following the agency's receipt of a statement or satisfactory delivery of the goods or performance of the services. Refer to section 103-10, HRS, for additional provisions governing the payment for goods and services.
- ♦ **PURCHASING CARD (pCard)** The State of Hawaii pCard is a MasterCard issued to State and county employees to purchase goods and services to meet the needs of their agency. Vendors must be signed up with MasterCard to accept the State of Hawaii's pCard.
- ♦ **PURCHASE ORDER** A hard copy or electronic document issued by government agencies to order goods or services from vendors. A purchase order shall have an assigned purchase order number for tracking purposes.
- ♦ **QUOTATION** A statement of price, terms of sales, and description of goods, services, or construction offered by a prospective seller to a prospective purchaser, usually for small purchases pursuant to section 103D-305, HRS.
- ♦ **REQUEST FOR INFORMATION** A request soliciting information to obtain recommendations from suppliers for a procurement that cannot be described in sufficient detail to prepare a solicitation.
- ♦ **REQUEST FOR QUOTES (eRFQ)** An on-line solicitation and receipt of quotes for goods and services less than \$25,000.
- ♦ **SICOMMNET** The subcontractor providing the vendor registration, eRFQ, IFB, RFP, and Reverse Auction capabilities of the HePS.
- ♦ **SPO** The State Procurement Office.
- ♦ **SYSTEMS ENGINEERING, INC. (SEI)** The contractor providing services on the HePS.
- ♦ **TRANSACTION FEE** All offerors awarded a contract shall pay a transaction fee of .85% (.0085) on the total dollar amount (excluding sales taxes) of goods or services purchased through the HePS.
- ♦ **VENDOR** A sole proprietor, partnership, corporation, or joint venture; a potential offeror or contractor.
- ♦ **VENDOR REGISTRATION** An on-line registration system for vendors to participate with the Hawaii Electronic Procurement System (HePS).

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3. **PRICES:** All prices submitted shall be F.O.B. destination, include all delivery charges, and taxes, unless otherwise noted.
4. **INVOICES AND RECEIPTS:** When a purchasing card (pCard) is used as the method of payment, vendor shall submit or make available to the agency an invoice, receipt, or packing slip, or other document to verify the procurement transaction. When a purchase order is used as the method of payment, vendor shall submit to the agency an original and three (3) copies of an invoice. Invoices, receipts, packing slips, or other documents shall indicate the pCard number or purchase order number.
5. **REJECTION OF ITEMS ORDERED:** Purchasing agencies reserve the right to reject any items supplied or services rendered that are not in accordance with specifications even though payment has been made.
6. **OVERCHARGES:** Vendor and purchaser recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, vendor hereby assigns to purchaser any and all claims for such overcharges as to goods and materials purchased in connection with this order or contract, except as to overcharges, which result from antitrust violations commencing after the price is established under this order or contract and which are not passed on to the purchaser under an escalation clause.
7. **SOLICITATION PROCESS** The HePS will promote Hawaii's economy through the primary solicitation of Hawaii companies. If there is insufficient competition among Hawaii companies, or quotes received are too high, agencies will have the option to request quotations from other than Hawaii companies.
8. **DOCUMENT REQUIREMENTS OF CONTRACTORS:** Before an award can be made to an offeror, the offeror shall provide the following three certificates to the purchasing agency. In lieu of these certificates, the offeror may make available proof of compliance through a State Procurement Office designated certification process.

HRS Chapter 237, Tax Clearance

Pursuant to §103D-328, HRS, offeror shall be required to submit a tax clearance certificate issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate shall have an original green certified copy stamp and shall be valid for six (6) months from the most recent approval stamp date on the certificate. It must be valid on the date it is received by the purchasing agency.

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The tax clearance certificate shall be obtained on the State of Hawaii, DOTAX *Tax Clearance Application* Form A-6 (Rev. 2003) which is available at the DOTAX and IRS offices in the State of Hawaii or the DOTAX website, and by mail or fax:

DOTAX Website (Forms & Information): <http://www.state.hi.us/tax/alphalist.html#a>.

DOTAX Forms by Fax/Mail: (808) 587-7572
1-800-222-7572

Completed tax clearance applications may be mailed, faxed, or submitted in person, to the Department of Taxation, Taxpayer Services Branch, to the address listed on the application. Facsimile numbers are:

DOTAX: (808) 587-1488
IRS: (808) 539-1573

The application for the clearance is the responsibility of the offeror, and must be submitted directly to the DOTAX or IRS and not to the purchasing agency. However, the tax clearance certificate shall be submitted to the purchasing agency.

**HRS Chapters 383 (Unemployment Insurance), 386 (Workers' Compensation),
392(Temporary Disability Insurance), and 393 (Prepaid Health Care)**

Pursuant to §103D-310(c), HRS, the offeror shall be required to submit a certificate of compliance issued by the Hawaii State Department of Labor and Industrial Relations (DLIR). The certificate is valid for six (6) months from the date of issue and must be valid on the date it is received by the purchasing agency. A photocopy of the certificate is acceptable.

The certificate of compliance shall be obtained on the State of Hawaii, DLIR *Application For Certificate Of Compliance With Section 3-122-112, HAR*, Form LIR #27 which is available at the www.dlir.state.hi.us, (at the menu click on Employer Forms, LIR #27), or at the neighbor island DLIR District Offices. The DLIR will return the form to the offeror who in turn shall submit it to the purchasing agency.

The application for the certificate is the responsibility of the offeror, and must be submitted directly to the DLIR and not to the purchasing agency. However, the certificate shall be submitted to the purchasing agency.

HRS Section 103D-310(c)(1) and (2), Business Registration

Pursuant to section 3-122-112, HAR, the offeror shall be required to submit a *Certificate of Good Standing* (Certificate) issued by the Hawaii State Department of Commerce and Consumer Affairs, Business Registration Division (BREG). The certificate is valid for six months from the date of issue and must be valid on the date it is received by the purchasing agency. A photocopy of the certificate is acceptable.

To obtain a certificate, offerors must register with the BREG. A sole proprietorship, however, is not required to register with the BREG and therefore not required to submit the certificate.

On-line business registration and the certificate are available at www.BusinessRegistrations.com. To register or obtain the certificate by phone, call (808) 586-2727 (M-F 7:45 am to 4:30 am HST). Offerors are advised that there are costs associated with registering and obtaining the certificate.

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9. **TRANSACTION FEE** Subject to Section 16 under this Secure Online Services Agreement (SOSA), a transaction fee of 0.85% shall apply to the total dollar amount (excluding sales tax) of all procurements made through the HePS. Transaction Fees apply to all purchases, whether through the state of Hawaii's pCard or purchase order, and regardless of the quantity or dollar amount of the purchase. The transaction fee shall not be stated or included as a separate item in the proposed contract or invoice. Transaction Fee terms and requirements shall appear on all electronic Solicitations and Award Notifications issued through the HePS.

The Hawaii Electronic Procurement System (HePS) is administered by Systems Engineering, Inc (Prime Contractor), Sicommnet, Inc, and iNet Purchasing (together, "HePS Contractor"). The HePS Contractor shall invoice the awarded vendor directly for payment of transaction fees. Payment must be made to Owner (Sicommnet) within 30 days from receipt of invoice. In order to ensure equality in bidding, the Transaction Fee shall be paid by all vendors who receive an award bid through HePS, whether they submit their response electronically or manually by paper means. The HePS contractor is an intended third-party beneficiary of transaction fees, which are used to fund the operation, maintenance, and future enhancements of the HePS system. There are no other costs for vendors associated with use of the system.

Awarded vendors shall receive a refund for any transaction fee paid by the awarded vendor for the purchase of an item(s), if such item(s) are returned to the vendor through no fault, act, or omission of the vendor. Notwithstanding the foregoing, a transaction fee is non-refundable when an item is rejected or returned, or declined, due to the awarded vendor's failure to perform or comply with specifications or requirements of the applicable purchase.

The payment of the transaction fee by the successful contractor is mandatory for the contractor to continue to participate with the HePS. The transaction fees are necessary to fund the management and for the success of the HePS. The only exclusion of the transaction fee shall be for purchases made from contracts under the Western States Contracting Alliance (WSCA) unless those contracts were initiated by the State of Hawaii.